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DEPARTMENT OF COMMERCE

International Trade Administration

C-533-866

Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from India: Final Affirmative Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of certain cold-rolled steel flat products (cold-rolled steel) from India as provided in section 705 of the Tariff Act of 1930, as amended (the Act). For information on the subsidy rates, *see* the “Final Determination” section of this notice. The period of investigation is January 1, 2014 through December 31, 2014.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Erin Kearney, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0167.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on December 22, 2015.¹ A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final

¹ See *Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products From India: Preliminary Affirmative Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 80 FR 79562 (December 22, 2015) (*Preliminary Determination*).

determination, may be found in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov> and it is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Scope of the Investigation

The products covered by this investigation are cold-rolled steel flat products from India. For a complete description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix II of this notice.

Scope Comments

In accordance with the Preliminary Scope Determination,³ the Department set aside a period of time for parties to address scope issues in case briefs or other written comments on scope issues.

For a summary of the product coverage comments and rebuttal responses submitted to the records of the cold-rolled steel investigations, and accompanying discussion and analysis of all

² See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Cold-Rolled Steel Flat Products from India" (Issues and Decision Memorandum), dated concurrently with this determination and hereby adopted by this notice.

³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Cold-Rolled Steel Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: Scope Comments Decision Memorandum for the Preliminary Determinations," dated February 29, 2016.

comments timely received, *see* the Final Scope Decision Memorandum.⁴ The Final Scope Decision Memorandum is incorporated by, and hereby adopted by, this notice.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix I.

Use of Adverse Facts Available

In making this final determination, the Department relied, in part, on facts available and, because JSW Steel Limited (JSWSL) did not act to the best of its ability in responding to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁵ For further information, *see* the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

Changes Since the Preliminary Determination

Based on our analysis of the comments received from parties, and the minor corrections presented, and additional items discovered, at verification, we made certain changes to the respondent's subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

⁴ *See* Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Certain Cold-Rolled Steel Products from Brazil, the People's Republic of China, India, Japan, the Republic of Korea, the Russian Federation, and the United Kingdom: "Final Scope Comments Decision Memorandum," dated May 16, 2016.

⁵ *See* sections 776(a) and (b) of the Act.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a subsidy rate for JSWSL (and its cross-owned company JSW Steel Coated Products Ltd. (JSCPL)), the exporter/producer of subject merchandise selected for individual examination in this investigation.

In accordance with sections 705(c)(1)(B)(i)(I) and 705(c)(5)(A) of the Act, for companies not individually investigated, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents with those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate excludes zero and *de minimis* rates calculated for the exporters and producers individually investigated, as well as any rates determined entirely under section 776 of the Act. Because the only individually calculated rate is the rate calculated for JSWSL and JSCPL, in accordance with section 705(c)(5)(A)(i) of the Act, the rate calculated for JSWSL and JSCPL is assigned as the “all-others” rate. The estimated countervailable subsidy rates are as follows:

| Company | Subsidy Rate |
|---|---------------------------------|
| JSW Steel Limited and JSW Steel Coated Products Limited | 10.00 percent <i>ad valorem</i> |
| All-Others | 10.00 percent <i>ad valorem</i> |

Disclosure

We intend to disclose to parties in this proceeding the calculations performed for this final determination within five days of the date of public announcement of our final determination, in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from India that were entered, or withdrawn from warehouse, for consumption on or after December 22, 2015, the date of the publication of the *Preliminary Determination* in the *Federal Register*. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for countervailing duty (CVD) purposes for subject merchandise entered, or withdrawn from warehouse, on or after April 20, 2016, but to continue the suspension of liquidation of all entries from December 22, 2015 through April 19, 2016.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and will reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it

will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Notification Regarding Administrative Protective Orders (APOs)

In the event the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3).

Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination and notice are issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: July 20, 2016.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Subsidies Valuation
- V. Benchmarks and Discount Rates
- VI. Use of Facts Otherwise Available and Adverse Inferences
- VII. Analysis of Programs
- VIII. Analysis of Comments
 - Comment 1: Application of AFA to JSW Steel (Salav) Ltd.
 - Comment 2: Calculation of Benefits Under the Export Promotion of Capital Goods Scheme
 - Comment 3: JSCPL's Electricity Duty Exemptions
 - Comment 4: Adjustment to Export Sales Denominators
 - Comment 5: Rounding of Program Rates
- IX. Recommendation

Appendix II

Scope of the Investigation

The products covered by this investigation are certain cold-rolled (cold-reduced), flat-rolled steel products, whether or not annealed, painted, varnished, or coated with plastics or other non-metallic substances. The products covered do not include those that are clad, plated, or coated with metal. The products covered include coils that have a width or other lateral measurement (“width”) of 12.7 mm or greater, regardless of form of coil (*e.g.*, in successively superimposed layers, spirally oscillating, etc.). The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness less than 4.75 mm and a width that is 12.7 mm or greater and that measures at least 10 times the thickness. The products covered also include products not in coils (*e.g.*, in straight lengths) of a thickness of 4.75 mm or more and a width exceeding 150 mm and measuring at least twice the thickness. The products described above may be rectangular, square, circular, or other shape and include products of either rectangular or non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process, *i.e.*, products which have been “worked after rolling” (*e.g.*, products which have been beveled or rounded at the edges). For purposes of the width and thickness requirements referenced above:

(1) where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set forth above, and

(2) where the width and thickness vary for a specific product (*e.g.*, the thickness of certain products with non-rectangular cross-section, the width of certain products with non-rectangular shape, etc.), the measurement at its greatest width or thickness applies.

Steel products included in the scope of this investigation are products in which: (1) iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.00 percent of nickel, or
- 0.30 percent of tungsten (also called wolfram), or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or

- 0.30 percent of vanadium, or
- 0.30 percent of zirconium

Unless specifically excluded, products are included in this scope regardless of levels of boron and titanium.

For example, specifically included in this scope are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, motor lamination steels, Advanced High Strength Steels (AHSS), and Ultra High Strength Steels (UHSS). IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium and/or niobium added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, titanium, vanadium, and molybdenum. Motor lamination steels contain micro-alloying levels of elements such as silicon and aluminum. AHSS and UHSS are considered high tensile strength and high elongation steels, although AHSS and UHSS are covered whether or not they are high tensile strength or high elongation steels.

Subject merchandise includes cold-rolled steel that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the cold-rolled steel.

All products that meet the written physical description, and in which the chemistry quantities do not exceed any one of the noted element levels listed above, are within the scope of this investigation unless specifically excluded. The following products are outside of and/or specifically excluded from the scope of this investigation:

- Ball bearing steels;¹
- Tool steels;²
- Silico-manganese steel;³

¹ Ball bearing steels are defined as steels which contain, in addition to iron, each of the following elements by weight in the amount specified: (i) not less than 0.95 nor more than 1.13 percent of carbon; (ii) not less than 0.22 nor more than 0.48 percent of manganese; (iii) none, or not more than 0.03 percent of sulfur; (iv) none, or not more than 0.03 percent of phosphorus; (v) not less than 0.18 nor more than 0.37 percent of silicon; (vi) not less than 1.25 nor more than 1.65 percent of chromium; (vii) none, or not more than 0.28 percent of nickel; (viii) none, or not more than 0.38 percent of copper; and (ix) none, or not more than 0.09 percent of molybdenum.

² Tool steels are defined as steels which contain the following combinations of elements in the quantity by weight respectively indicated: (i) more than 1.2 percent carbon and more than 10.5 percent chromium; or (ii) not less than 0.3 percent carbon and 1.25 percent or more but less than 10.5 percent chromium; or (iii) not less than 0.85 percent carbon and 1 percent to 1.8 percent, inclusive, manganese; or (iv) 0.9 percent to 1.2 percent, inclusive, chromium and 0.9 percent to 1.4 percent, inclusive, molybdenum; or (v) not less than 0.5 percent carbon and not less than 3.5 percent molybdenum; or (vi) not less than 0.5 percent carbon and not less than 5.5 percent tungsten.

³ Silico-manganese steel is defined as steels containing by weight: (i) not more than 0.7 percent of carbon; (ii) 0.5 percent or more but not more than 1.9 percent of manganese, and (iii) 0.6 percent or more but not more than 2.3 percent of silicon.

- Grain-oriented electrical steels (GOES) as defined in the final determination of the U.S. Department of Commerce in *Grain-Oriented Electrical Steel From Germany, Japan, and Poland*.⁴
- Non-Oriented Electrical Steels (NOES), as defined in the antidumping orders issued by the U.S. Department of Commerce in *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan*.⁵

The products subject to this investigation are currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers: 7209.15.0000, 7209.16.0030, 7209.16.0060, 7209.16.0070, 7209.16.0091, 7209.17.0030, 7209.17.0060, 7209.17.0070, 7209.17.0091, 7209.18.1530, 7209.18.1560, 7209.18.2510, 7209.18.2520, 7209.18.2580, 7209.18.6020, 7209.18.6090, 7209.25.0000, 7209.26.0000, 7209.27.0000, 7209.28.0000, 7209.90.0000, 7210.70.3000, 7211.23.1500, 7211.23.2000, 7211.23.3000, 7211.23.4500, 7211.23.6030, 7211.23.6060, 7211.23.6090, 7211.29.2030, 7211.29.2090, 7211.29.4500, 7211.29.6030, 7211.29.6080, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7225.50.6000, 7225.50.8080, 7225.99.0090, 7226.92.5000, 7226.92.7050, and 7226.92.8050. The products subject to the investigation may also enter under the following HTSUS numbers: 7210.90.9000, 7212.50.0000, 7215.10.0010, 7215.10.0080, 7215.50.0016, 7215.50.0018, 7215.50.0020, 7215.50.0061, 7215.50.0063, 7215.50.0065, 7215.50.0090, 7215.90.5000, 7217.10.1000, 7217.10.2000, 7217.10.3000, 7217.10.7000, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090, 7225.19.0000, 7226.19.1000, 7226.19.9000, 7226.99.0180, 7228.50.5015, 7228.50.5040, 7228.50.5070, 7228.60.8000, and 7229.90.1000.

The HTSUS subheadings above are provided for convenience and U.S. Customs purposes only. The written description of the scope of the investigation is dispositive.

⁴ *Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances*, 79 FR 42501, 42503 (Dep't of Commerce, July 22, 2014). This determination defines grain-oriented electrical steel as “a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths.”

⁵ *Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Antidumping Duty Orders*, 79 FR 71741, 71741-42 (Dep't of Commerce, Dec. 3, 2014). The orders define NOES as “cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term ‘substantially equal’ means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B800 value). NOES contains by weight more than 1.00 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum. NOES has a surface oxide coating, to which an insulation coating may be applied.”

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